

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RAMADA WORLDWIDE INC.,	:	Honorable Madeline Cox Arleo
	:	Civil Action No. 05-3452 (JAG)
Plaintiff,	:	
	:	
v.	:	<u>REPORT AND RECOMMENDATION</u>
	:	
BENTON HARBOR HARI OHM, LLC,	:	
ET AL.,	:	
	:	
Defendants.	:	
	:	

BACKGROUND

On July 11, 2005, plaintiff, Ramada Worldwide, Inc. (“plaintiff”), filed the complaint.

On January 13, 2006, plaintiff requested a Clerk’s entry of default against defendants Benton Harbor Hari Ohm, LLC (“Benton Harbor”),¹ Varsha Patel (“V. Patel”), Snehal Patel (“S. Patel”), Nilesh Patel (“N. Patel”), and Jyotrina Patel (“J. Patel”) for their failure to plead or otherwise respond to the complaint. On that same date, the Clerk’s Office entered default against all defendants. On January 17, 2006, V. Patel sent written correspondence to the Court, asking that the Complaint be “rescinded” against Benton Harbor and its principal owner, V. Patel.

On July 6, 2006, plaintiff filed a motion for default judgment against all defendants. On August 14, 2006, J. Patel, through his counsel, John Doyle, submitted opposition to the default

¹ A review of the official docket and the parties’ pleadings indicates that corporate defendant Benton Harbor Hari Ohm, LLC is a single corporate entity.

judgment motion and cross-moved to vacate the entry of default against him and for leave to file an answer to the complaint. In response to a request from attorney Richard Mazawey, on behalf of all defendants, on September 19, 2006, District Judge Greenaway granted defendants thirty days to file an answer to the complaint.² On November 17, 2006, Judge Greenaway entered an Order, denying plaintiff's motion for default judgment against all defendants without prejudice.

On February 15, 2007, Benton Harbor, S. Patel and N. Patel filed an answer to the complaint. On June 4, 2007, J. Patel filed an answer.

On July 16, 2007, attorney Richard Mazawey filed a motion to be relieved as counsel for Benton Harbor, S. Patel, and N. Patel. This Court granted Mr. Mazawey's motion by Order entered on July 27, 2007 and directed him to provide his clients with copies of the Order. This Court further directed Benton Harbor,³ a corporate entity, to have new counsel enter an appearance on its behalf no later than August 20, 2007, as a corporate entity cannot represent itself under applicable law. The Order also provided that, if counsel failed to enter an appearance on behalf of Benton Harbor by August 20, 2007, this Court would ask the District Court to strike Benton Harbor's answer and enter default against it. As to defendants S. Patel and N. Patel, if new counsel was not secured by August 20, the Court would then deem them to be proceeding on a pro se basis. The parties were directed to appear for status conference on August 21, 2007 at 10:00 a.m.. On August 21, 2007, only plaintiff's counsel appeared at the Conference. No party or counsel appeared on behalf of Benton Harbor, S. Patel, N. Patel, or J. Patel.

² Based on a review of the official docket, it appears that, beginning on or about September 19, 2006, J. Patel was jointly represented by John Doyle and Richard Mazawey.

³ In the July 27, 2007, Letter-Order, the Court mistakenly referred to Benton Harbor and Hari Ohm, LLC as two separate corporate entities.

Pursuant to settled Third Circuit law, corporations cannot represent themselves pro se.

See Simbraw v. United States, 367 F.2d 373, 374 (3d Cir. 1966). Therefore, I recommend that the District Court strike the Answer of corporate defendant Benton Harbor Hari Ohm, LLC (Docket Entry No. 15), and that plaintiff be allowed to proceed to judgment by default as to defendant Benton Harbor Hari Ohm, LLC and enter default against it. The parties have ten (10) days from the date hereof to file and serve objections.

Respectfully submitted,

s/Madeline Cox Arleo
MADELINE COX ARLEO
United States Magistrate Judge

Dated: October 24, 2007

Orig.: Clerk of the Court
cc: Hon. Joseph A. Greenaway, Jr., U.S.D.J.
All Parties
File